

(e) *Real property acquisition requirements.* The acquisition of real property for a project is subject to the URA and the requirements of 49 CFR part 24, subpart B.

(f) *Appeals.* A person who disagrees with the grantee's determination concerning whether the person qualifies as a displaced person, or the amount of relocation assistance for which the person may be eligible, may file a written appeal of that determination with the grantee.

§ 93.353 Conflict of interest.

(a) *Applicability of 2 CFR 200.318.* In the procurement of property and services by grantees and subgrantees, the conflict of interest provisions in 2 CFR 200.318 apply. In all cases not governed by 2 CFR 200.318, the provisions of this section apply.

(b) *Conflicts prohibited.* No persons described in paragraph (c) of this section who exercise or have exercised any functions or responsibilities with respect to activities assisted with HTF funds or who are in a position to participate in a decision-making process or gain inside information with regard to these activities may obtain a financial interest or financial benefit from a HTF-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to the HTF-assisted activity, or the proceeds from such activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter. Immediate family ties include (whether by blood, marriage, or adoption) the spouse, parent (including a stepparent), child (including a stepchild), brother, sister (including a stepbrother or stepsister), grandparent, grandchild, and in-laws of a covered person.

(c) *Persons covered.* The conflict of interest provisions of paragraph (b) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the grantee or subgrantee.

(d) *Exceptions: Threshold requirements.* Upon the written request of the grantee, HUD may grant an exception to the provisions of paragraph (b) of this section on a case-by-case basis when it de-

termines that the exception will serve to further the purposes of the HTF and the effective and efficient administration of the grantee's program or project. An exception may be considered only after the grantee has provided the following:

(1) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and

(2) An opinion of the grantee's attorney that the interest for which the exception is sought would not violate State or local law.

(e) *Factors to be considered for exceptions.* In determining whether to grant a requested exception after the grantee has satisfactorily met the requirements of paragraph (d) of this section, HUD will consider the cumulative effect of the following factors, where applicable:

(1) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;

(2) Whether the person affected is a member of a group or class of income eligible persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

(3) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decisionmaking process with respect to the specific assisted activity in question;

(4) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (c) of this section;

(5) Whether undue hardship will result either to the grantee or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

(6) Any other relevant considerations.

(f) *Recipient—(1) General.* No recipient assisted with HTF funds (or officer, employee, agent, elected or appointed official, or consultant of recipient or

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immediate family member or immediate family member of an officer, employee, agent, elected or appointed official, or consultant of a recipient) whether private, for-profit or non-profit, may occupy a HTF-assisted affordable housing unit in a project during the required period of affordability specified in § 93.302(e) or § 93.304. This provision does not apply to an employee or agent of the recipient who occupies a housing unit as the project manager or maintenance worker.

(2) *Exceptions.* Upon written request of a recipient, the grantee (or subgrantee, if authorized by the grantee) may grant an exception to the provisions of paragraph (f)(1) of this section on a case-by-case basis when it determines that the exception will serve to further the purposes of the HTF program and the effective and efficient administration of the recipient's HTF-assisted project. In determining whether to grant a requested exception, the grantee shall consider the following factors:

(i) Whether the person receiving the benefit is a member of a group or class of low-income persons intended to be the beneficiaries of the assisted housing, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

(ii) Whether the person has withdrawn from his or her functions or responsibilities, or the decisionmaking process with respect to the specific assisted housing in question;

(iii) Whether the tenant protection requirements of § 93.303 are being observed;

(iv) Whether the affirmative marketing requirements of § 93.350 are being observed and followed; and

(v) Any other factor relevant to the grantee's determination, including the timing of the requested exception.

§ 93.354 Funding Accountability and Transparency Act.

The HTF grant to the grantee and all assistance provided to subgrantees and recipients shall be considered a Federal award for purposes of the Federal Funding Accountability and Trans-

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parency Act of 2006 (31 U.S.C. 6101 note).

§ 93.355 Eminent domain.

No HTF funds may be used in conjunction with property taken by eminent domain, unless eminent domain is employed only for a public use, except that, public use shall not be construed to include economic development that primarily benefits any private entity.

Subpart I—Program Administration

§ 93.400 Housing Trust Fund (HTF) accounts.

(a) *General.* HUD will establish an HTF United States Treasury account (HTF Treasury account) for each grantee. Each grantee may use either a separate HTF local account or a subsidiary account within its general fund (or other appropriate fund) as the HTF local account.

(b) *HTF Treasury account.* The HTF Treasury account includes the annual grant and funds reallocated to the State by formula.

(c) *HTF local account.* (1) The HTF local account includes deposits of HTF funds disbursed from the HTF Treasury account, any program income, and any repayments as required by § 93.403.

(2) The HTF local account must be interest-bearing.

(d) *Reductions.* HUD will reduce or recapture funds in the HTF account by the amount of:

(1) Any fiscal year grant funds in the HTF Treasury account that are not committed within 24 months after the date of HUD's execution of the HTF grant agreement;

(2) Any fiscal year grant funds in the HTF local account that are not expended within 5 years after the date of HUD's execution of the HTF grant agreement;

(3) Any amounts pursuant to § 93.453; and

(4) Amounts that the grantee fails to obtain and that were required to be reimbursed or returned under § 93.450.

§ 93.401 HTF grant agreement.

Allocated and reallocated funds will be made available pursuant to an HTF grant agreement.